

## THE BARRUNDIA CASE

## Blaine's Patriotic Course in the Affair.

## His Correspondence With Mizner.

## That Official Severely Rebuked for His Course and Recalled From His Post.

WASHINGTON, December 5.—The President today transmitted to the House the correspondence growing out of the killing of General Barrundia.

In Mizner's first letter to Secretary Blaine, in regard to the killing of Barrundia, he quotes a communication to Captain Pitts, dated August 27, stating that Guatemala, like any other nation, has the right to arrest a person on a neutral ship in its own waters when deemed guilty of an offense under the national law.

In a later telegram to Captain Pitts, Mizner says: "If your ship is within one league of the territory of Guatemala and you have on board Barrundia, it becomes your duty to deliver him to the authorities of Guatemala upon their demands, allegations having been made to this office that Barrundia is hostile and an enemy to the republic. Guatemala has been notified to me by this government that his life shall not be in danger or any punishment inflicted on him for any other than the cause charged."

In allusion to Barrundia's personal safety, Mizner says it was at his request promised, the night before, by the President of Guatemala. Subsequently he received a telegram from Commander Reiter acknowledging Guatemala's right and requesting the Minister to obtain permission from the government to return Barrundia to Mexico in the Thetis. The Minister of Foreign Relations positively declined to accede to this request. All the circumstances and Barrundia's well known hostility to the government and his attempted invasion from Mexico, Mizner says, decided his course and he thereupon, in response to a request for written and not telegraphic orders, acknowledged Captain Pitts' telegram in a letter advising him to accede to the request.

The succeeding communication is after Commander Reiter has telegraphed Barrundia's death. In an interview with the minister of foreign affairs, that officer stated that his government had given positive orders to take Barrundia from the Acapulco, even to sinking the ship, notwithstanding it might involve a conflict with our two war vessels. This, he said, had been in exercise of the right of his government over the water adjacent to that coast. Mizner says he had never heard of these orders before.

He then gives the decision of Secretary Bayard in the London Mexican case, in support of his action and conduct, and concludes: "I confidentially add that nothing will tend so much to the establishment of permanent peace in these republics as a plain declaration that our fleet of steamers cannot be used as an asylum for revolutionists."

The correspondence closes with a letter from Blaine to Mizner, dated November 18, in which he reviews the case at length, and says:

"The more the question is examined in light of important facts, the deeper becomes the regret that you so far exceeded your legitimate authority as to sign a paper which, in the hands of the officers of Guatemala, became their warrant for the capture of Barrundia."

In the case of Gomez, which Mizner offers as an excuse for his conduct, Blaine fails to find any support for Mizner's action.

"I am aware that it may be said that you merely advised the Captain to do duty, but the Captain did not simply seek advice in his telegram from Champerico. He said that on his arrival at San Jose he will place himself under the orders of the American minister. He again telegraphed to you, later, that he was awaiting your instructions at San Jose and he expected your orders. In the letter to you, dated at that point on the evening of August 27, he categorically inquired 'shall I deliver General Barrundia to the authorities here?' If so, please send me a letter with your signature to that effect." There is not the slightest suggestion that Captain Pitts proposed to do as otherwise than on your order and your responsibility. It was under these circumstances that you wrote the letter which became in the hands of the Guatemalan officials, a pretext for the attempted seizure of Barrundia."

The Secretary says that through Mizner's action the naval force in the United States in those waters thus became quiet spectators of such events upon merchant vessels of the United States under the muzzles of their guns. "I am not disposed," continued Blaine to pay undue regard to these post facto treaties, which are now reported to the department. I prefer to think that by extravagance of language, uncontrolled by the actual presence of the problem which he was permitted to solve so much to his satisfaction, Señor Anguino has done injustice to his own sense of humanity. To have sunk the Acapulco in executing a purpose for accomplishing which nothing but invalid reasons have so far been advanced, would have been an act of savage warfare, and I am instructed by the President to say he earnestly trusts the time never will come in the course of events when Guatemala, or the declared purpose of her rulers, will constrain this Government to infringe the safety of its merchant vessels only by stationing naval vessels along the coast of that country."

Blaine informs Mizner that if, instead of accepting the lawless and turbulent condition of affairs as a ground for his advice and consent to the surrender of Barrundia he had made it the basis of suggestion to Commander Reiter to offer him hospitality on board the Ranger, within or without the waters of Guatemala, his action would have had the sanction of humane and recognized precedent.

Blaine concludes his letter as follows:

## WORK OF CONGRESS

## Senator Gray Opposes the Elections Bill.

## Pension Bill Passes the House.

## Spirited Debate Upon the Measure Between Opposite Sides of the House.

WASHINGTON, December 5.—In the Senate today Senator Stanford introduced a bill to provide the Government with means sufficient to supply the national want of a sound circulating medium and asked for it to lie on the table, stating that he would hereafter submit remarks upon it.

The Elections bill was then taken up and Senator Gray addressed the Senate.

Mr. Gray said the bill was fraught with the greatest danger to the future prosperity of the whole country and that it menaced the liberties of the people of all the States. Speaking of the Southern States Senator Gray referred to the improvement of affairs there since the reconstruction period, and asked why they should be interfered with. He particularly attacked the domicile clause, giving the supervisor the power of making house to house visits, to inquire as to politics, names, religion, etc.

Senator Stanford responded to him by saying that the domicile clause had been struck out.

Senator Gray replied that it was in the bill as reported.

Senator Hoar explained that it was in by mistake.

After considerable desultory discussion, Senator Gorman moved to have the bill reported. No action was taken and Mr. Gray retained the floor.

Senator Morgan offered a resolution, which went over, calling on the Attorney-General for a statement of names, residences and dates of appointment of all chief supervisors of elections now in office in each judicial district.

The Senate then adjourned.

In the House.

WASHINGTON, December 5.—In the House the Senate joint resolution authorizing the Secretary of War to issue 1000 stand of arms each to the States of North and South Dakota, Wyoming and Nebraska was taken up. Montana was included and the resolution passed.

On motion of Mr. Morrow, the House went into Committee of the Whole on the Pension Appropriation bill.

Mr. Outwater, of Ohio, referred to yesterday's talk about the Commissioner of Pensions and criticized the conduct of that officer in the recent campaign.

Mr. Outwater suggested that Commissioner Black had taken part in a Congressional election.

Mr. Outwater replied that if Mr. Black had done such things as Mr. Rank had done he should have been brought to justice. He then proceeded to reproach the Republican House with shirking its duty, arguing that the pending bill would show a deficiency of over \$25,000,000.

Mr. Dockery said that a few months ago he stood on this floor and declared that the Republicans were refusing, for party purposes, to appropriate within \$45,000,000 of the amount required for pensions under the existing law. This declaration is almost substantiated by the fact that the Commissioner now comes asking for a deficiency of \$24,500,000 to be made good. Mr. Dockery then branched into a discussion of the general financial condition of the country, presenting tables to show that there will be a deficiency on July 1, 1892, of over \$37,000,000, and said this did not include any deficiency for the years 1891 or 1892.

Mr. Peters, of Kansas, made an exhaustive argument to show that the Appropriation bill was amply sufficient. The Democratic party was endeavoring to embrace the Farmers' Alliance movement. He conceded that the Republican party in Kansas had run against this movement and had received a black eye. But the time was coming when the cyclone would strike Democratic States. The Republican party would revive, because "Truth crushes to earth all lies again." He wanted the Fifty-second Congress to pass the Sub-Treasury bill, the Free Coinage bill and the Service Pension bill, and unless his Democratic friends would do all that, they would find that the wave of the Farmers' Alliance would wipe them from the face of the earth.

Mr. Biggs, of California, made a brief and humorous speech, in the interest of increased appropriation, which would prevent the deficiency from being thrown upon a Democratic House. He created hearty laughter when, in conclusion, he ejaculated: "Ask the people of California who stands foremost among them, W. W. Morrow or Marion Biggs? The answer will be 'Biggs by 5000 majority!'"

In concluding the debate, Mr. Morrow of California, argued that the amount carried by the bill was all, if not more than all, the amount required by the Pension Bureau during the coming year.

On motion of Mr. Dockery, an amendment was adopted providing that no agent or attorney shall demand, receive or be allowed any compensation on any claim for increase of pension on account of increase of disability. It is estimated that this will save \$5,000,000 to pensioners within the next three years.

Mr. Springer offered an amendment increasing to \$150,000,000 the appropriation. There was no excuse, he said, for a Republican House to make an inadequate appropriation and throw the deficiency on a Democratic House. The amendment lost by 65 to 129.

After further debate, the Committee rose, the bill was passed and the House adjourned.

Considering Closure of Debate.

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## IN THE COURTS.

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## The Grand Jury Shown to be Illegally Constituted and Is Discharged.

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Judge Joseph Campbell, for the defense, presented a right to enter the plea, showing that it went beyond the criminal code; that it was a plea in common law, recognized by the courts since the very earliest courts of common law, established before judges and juries were known. In support of his argument Judge Campbell cited numerous decisions of the Supreme Courts of different States, showing the eminence of authorities on legal practice as Bishop and Wharton.

Judge Campbell was followed by Mr. Abraham Humphries for the defense, who presented the same line of argument as that of Judge Campbell, giving citations in support of his argument, from the Supreme Courts of Arkansas, Alabama, Utah, Nevada and Texas.

Hon. A. C. Baker then followed with an eloquent plea setting forth the jurisdiction of grand juries and the fact that unless properly restrained, instead of a court of inquiry as originally intended it should be, it became a court of inquiry, as in this case.

Mr. Edwards closed with an argument intended to show that the plea should be stricken out. Judge Kibbey overruled the motion to strike out the plea of abatement in a clear and concise statement, the substance of which was as follows:

"Under the constitution of the United States no man can be prosecuted in this Territory except upon indictment presented by a grand jury, and that means a legal grand jury. Under the organic act, the Legislature had a right to regulate the summoning and empaneling of the grand jury, and a legal grand jury must be sworn in accordance with the law. The Legislature by presenting a code of criminal procedure did not deprive the defendant of the right to have a legal grand jury. It has been said to me, but in such a way I could not understand it, that since the Legislature has been a grand jury in this case, it is a special proceeding. If this be so it shows a manifest error of judgment on the part of having an impartial grand jury. If the code omits to provide a means to inquire into the and, to have a legal grand jury, then this plea is admissible and the motion to strike out is overruled."

This consumed the morning hour and on resuming at 1:30 Mr. Baker moved the Court to discharge the defendant, as the motion to strike out, being practically a demurrer, admitted the facts, and as the Court, in overruling the motion, had held the plea to be sufficient in law and as the demurrer, designated a motion by the District Attorney, admitted the facts, there was nothing further for the defense to say.

The plea having asserted the validity of an act of the Fifteenth Legislature, known as House Bill No. 40, in the District Attorney claimed the law in question was not good because it had never been published.

At request of the Court Governor Murphy, Governor Zulick, J. L. B. Alexander, Private Secretary to Zulick, and T. D. Hammond, now Private Secretary, were called for examination as to the filing of the law in question. Governor Murphy told of his finding in the Governor's office November 9, 1890, of the laws not published, eleven in number, and of his filing them in the office of the Secretary. Governor Zulick said he intended this law to die by a "pocket veto," and for that reason did not act upon it.

Judge Kibbey remarking that this was in his opinion a case without precedent and one, the like of which he had never heard of before, Mr. Baker replied in a very able plea, as follows:

Your Honor has said that you never heard of such a case before, and I may say that I don't think anybody else could ever hear of such a case except in Arizona Territory. (Merriment.) We claim that this is a valid law of the Territory for it was passed by the representatives of the people, elected by the people of this Territory. It passed both Houses, having gone its regular course, and was presented to the Governor for his approval, and if that approval was withheld by the executive officer of this Territory, it was no fault of the people or of their representatives. (An emphatic "No.") It was the duty of the Governor if he desired that his disapproval should be given to have vetoed the bill and written his name to his veto and returned it to the legislative body from which it came, so that the people's representative could have had an opportunity to amend the measure over his veto. The act became a law, for the negligence of the Governor cannot deprive the people of the law-making power when expressed by their official act.

Under the proof there is no doubt in the world that this is the identical bill that was passed by the legislative assembly of our Territory. Now can the negligence of the Governor defeat the will of this people when they expressed their legislative will? I say "No." Your Honor, it would be against all law and against every rule of reason. If there is blame attached to the Governor, let it be to the Governor, and let the measure over his veto. The act became a law, for the negligence of the Governor cannot deprive the people of the law-making power when expressed by their official act.

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## MEASURES INTRODUCED.

## Stanford's Money Lending Bill—A Move to Disarm the Indians.

## WASHINGTON, December 5.—The bill introduced by Senator Stanford today to provide the government with means sufficient to supply the national want of a sound circulating medium is the same bill introduced by him last May, and was reintroduced so as to allow of the making some remarks on it. The bill authorizes the issue of \$100,000,000 in treasury notes, to be loaned at 2 percent, on application, to citizens owning unincumbered lands, the loans not to exceed one-half the assessed value of the land nor to extend for more than twenty years.

Representative Hansbrough, of North Dakota, has introduced a bill providing for the disarmament of the Indians and making it a punishable offense for any person to sell arms or ammunition to them.

## MINISTER TO GUATEMALA.

## Romualdo Pacheco, of California, Selected for the Position.

WASHINGTON, December 5.—The President has sent the nomination to the Senate of Romualdo Pacheco, of California, as Minister to the Central American States.

Pacheco has been governor of California and a member of Congress from that State, and has long been one of California's leading citizens. He was born at Santa Barbara, Cal., October 31, 1831; was educated by private tutors; engaged in nautical pursuits, and subsequently in agriculture; was a representative in the State Legislature in 1863; in 1865 was elected County Judge, and served four years; was a State Senator in 1871, and again in 1881; was elected State Treasurer in 1883; was again in the State Legislature in 1888; was elected Lieutenant-Governor in 1871, and became Governor by the election of Governor Booth to the United States Senate; was elected a Representative from California to the Forty-fifth Congress, but his term was successfully contested by R. D. Wigginton; was re-elected to the Forty-sixth and Forty-seventh Congresses.

## A BOLD UNDERTAKING

## TO CIRCUMNAVIGATE THE GLOBE IN A SMALL BOAT.

## Arrival in Yuma of Two Young Men Who Started From The Needles on a Daring Scheme.

SPECIAL DISPATCH TO THE REPUBLICAN.

YUMA, Ariz., December 5.—Godfrey Sykes and Charles McLean, the two young men who started from the Needles two weeks ago for a trip around the world, arrived today.

The boat is twenty-two feet long, five feet wide and draws three inches of water. It has been named the Hilda. It was made at Flagstaff, and is rigged with two masts.

The route will be down the Gulf of California into the Pacific Ocean, down the coast of South America, through the Straits of Magellan, thence up the east coast to the latitude of Rio Janeiro, across the Atlantic to Sierra Leone, from there the course will be to London, along the coasts of Africa and Europe. From London they will steer for the Mediterranean, passing through that and the Red Sea, across the Indian Ocean, skirting the southern and eastern coasts of India, north, along the Asiatic coast to Behring Sea, thence down the west coast of America to San Francisco.

The time for the trip is estimated at two and a half years.

They will leave here as soon as they can procure clearance from the Custom House.

## CHINESE IMMIGRATION.

## CONGRESSIONAL COMMITTEE AT WORK IN SAN FRANCISCO.

## A Custom House Official Upon Chinese Methods of Evading the Law—Interpreters Rickards on the Stand.

SAN FRANCISCO, December 5.—The sub-committee of the Committee on Immigration began taking testimony here today.

Customs Inspector Russell submitted statistics dating from the passage of the Exclusion bill, relative to the movement of Chinese. The excess of departures over arrivals since its passage was 11,312. There are now over 1000 cases of habeas corpus pending in the courts. Inspector Russell said the chief difficulty encountered by customs officers was the landing of Chinese here on writ of habeas corpus. He understood that on payment of \$170 to an agency in Hong Kong Chinese are assured a landing at this port. There are agencies here which furnish testimony, furnish bonds and generally assist incoming Chinese. The main claim set up is that they were born here. The United States Circuit Court has within the past eleven months remanded about 67 per cent of the Chinese brought up on writs of habeas corpus, and the District Court has remanded about 14 per cent of the cases before it, but not all of these Chinese had left the country, for the reason that they disappear when writs are granted. Suits against the bondsmen, witness believed, were uncommon.

Interpreter Rickards testified as to the importation of Chinese women for immoral purposes, and said they were sold and resold as chattels. He also testified that there are about fifty firms here who have Chinese immigrants consigned to them. He said the wages paid to Chinese labor here are gradually increasing.

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Judge Kibbey remarking that this was in his opinion a case without precedent and one, the like of which he had never heard of before, Mr. Baker replied in a very able plea, as follows:

Your Honor has said that you never heard of such a case before, and I may say that I don't think anybody else could ever hear of such a case except in Arizona Territory. (Merriment.) We claim that this is a valid law of the Territory for it was passed by the representatives of the people, elected by the people of this Territory. It passed both Houses, having gone its regular course, and was presented to the Governor for his approval, and if that approval was withheld by the executive officer of this Territory, it was no fault of the people or of their representatives. (An emphatic "No.") It was the duty of the Governor if he desired that his disapproval should be given to have vetoed the bill and written his name to his veto and returned it to the legislative body from which it came, so that the people's representative could have had an opportunity to amend the measure over his veto. The act became a law, for the negligence of the Governor cannot deprive the people of the law-making power when expressed by their official act.

Under the proof there is no doubt in the world that this is the identical bill that was passed by the legislative assembly of our Territory. Now can the negligence of the Governor defeat the will of this people when they expressed their legislative will? I say "No." Your Honor, it would be against all law and against every rule of reason. If there is blame attached to the Governor, let it be to the Governor, and let the measure over his veto. The act became a law, for the negligence of the Governor cannot deprive the people of the law-making power when expressed by their official act.

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